Hovsepian v. Apple, Inc.
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Exhibit H

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

In re ACACIA MEDIA TECHNOLOGIES CORPORATION	Case No. 05-CV-1114 JW **PARTIES' STIPULATED DEFINITIONS FOR CLAIM TERMS FROM THE '863 AND '720 PATENTS** Date: September 7-8, 2006 Time: 9:00 a.m. Courtroom: 8, 4th Floor Judge: Hon. James Ware

The parties[1] to this action hereby submit the following constructions for claim terms of U.S. Patents 5,550,863 and 6,002,720 that are not disputed:[2]

1. The phrase "a plurality of subscriber (selectable) receiving stations coupled to the local distribution system"[3] in Claims 14 and 17 of the '863 patent and Claims 8 and 11 of the '720 patent means that two or more "subscriber (selectable) receiving stations"[4] must be "coupled to" the local distribution system.

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[1] For the purposes of the issues involving the '863 and '720 patents, the parties are the Round 2 Defendants, who are the Cable and Satellite defendants whom Acacia sued in the first two rounds of complaints, and the Round 3 defendants, who are two of the cable company defendants whom Acacia sued in New York in the third round of complaints: Time Warner Cable Inc. and CSC Holdings, Inc.. The Round 2 Defendants are: Comcast Cable Communications, LLC; The DIRECTV Group, Inc.; EchoStar Satellite LLC; EchoStar Technologies Corp.; Charter Communications, Inc.; Armstrong Group; Block Communications, Inc.; East Cleveland Cable TV and Communications LLC; Wide Open West Ohio LLC; Massillon Cable TV, Inc.; Mid-Continent Media, Inc.; US Cable Holdings LP; Savage Communications, Inc.; Sjoberg's Cablevision, Inc.; Loretel Cablevision; Arvig Communications Systems; Cannon Valley Communications, Inc.; NPG Cable, Inc.; Cable One, Inc.; Mediacom Communications Corp.; Bresnan Communications; Cequel III Communications I, LLC (dba Cebridge Connections); Coxcom, Inc.; Hospitality Network, Inc., and Cable America, Inc. Although Defendants Insight Communications, Inc. and Bresnan Communications were sued in Round 3, they are joining the Rounds 1 and 2 Defendants' proposed constructions. Acacia is not asserting the '863 and '720 patents against the Round 1 defendants (the Internet defendants), which includes New Destiny Internet Group LLC; Audio Communications, Inc.; VS Media Inc.; Ademia Multimedia LLC; Adult Entertainment Broadcast Network; Cyber Trend Inc.; Lightspeed Media Group, Inc.; Adult Revenue Services; Innovative Ideas International; Game Link Inc.; Club Jenna Inc.; Global AVS Inc.; ACMP LLC; Cybernet Ventures Inc.; National A-1 Advertising Inc.; and AEBN, Inc; International Web Innovations, Inc., Offendale Commercial BV, AskCS.com. Accordingly, the Internet defendants have not participated in the preparation of this chart and have no position on the construction of any claim terms that pertain only to '863 and '720 patents. Likewise, the Rounds 2 and 3 Cable Defendants take no position on the construction of any claim terms that pertain only to the '720 patent since that patent has not been asserted against those parties.

[2] Each defendant stipulates to the construction of terms or limitations which are recited in claims asserted against it. Acacia and each defendant reserves the right to seek construction of additional claim terms, or propose a new construction of terms and limitations listed herein, should Acacia be permitted to assert additional claims against each defendant in the future.

[3] Claims 14 and 17 of the '863 patent, and the construction thereof, use the phrase "subscriber receiving stations." Claims 8 and 11 of the '720 patent, and the construction thereof, use the phrase "subscriber selectable receiving stations."

[4] The Round 2 Defendants contend that the phrase "subscriber receiving stations" is otherwise indefinite.

2. The term “remote from,” as used in the ‘863 and ‘720 patents, means “distant in space from.”

3. The term “non-real time rate” means a rate (described in terms of time) that is different than the actual rate (described in terms of time) during which a particular item (e.g., video or audio) is listened to or viewed.

4. The term “real time rate” is a rate (described in terms of time) that is the actual rate (described in terms of time) during which a particular item (e.g., video or audio) is listened to or viewed.

5. In Claim 14 of the ‘863 patent, the “transmitting step” includes, but is not limited to, the steps of:

   (a) “inputting an item having information into the transmission system;”

   (b) “assigning a unique identification code to the item having information;”

   (c) “formatting the item having information as a sequence of addressable data blocks;”

   (d) “compressing the formatted and sequenced data blocks;”

   (e) “storing, as a file, the compressed, formatted, and sequenced data blocks with the assigned unique identification code ;” and

   (f) “sending at least a portion of the file at the non-real time rate to the local distribution system.”

These steps are part of the step of “transmitting compressed, digitized data representing a complete copy . . . from a central processing location.” While the parties disagree on the meaning of “central processing location,”[5] the parties agree that the transmission system is located at the central processing location and that the transmitting steps, including steps (a) - (f) listed above, are performed by the transmission system.

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[5] The Round 2 Defendants contend that the phrase “central processing location” is indefinite.

6. In Claim 17 of the ‘863 patent, the “formatting step” includes, but is not limited to, the steps of:

(a) “inputting an item having information into the transmission system;”

(b) “assigning a unique identification code to the item having information;”

(c) “formatting the item having information as a sequence of addressable data blocks;”

(d) “compressing the formatted and sequenced data blocks.”

These steps are part of the step of “formatting items of audio/video information as compressed digitized data at a central processing location.” While the parties disagree on the meaning of “central processing location,”[6] the parties agree that the transmission system is located at the central processing location and that the formatting steps, including steps (a) - (d) listed above, are performed by the transmission system.

7. While the parties disagree on the construction of “local distribution system,” in Claims 14 and 17 of the ‘863 patent and Claims 8 and 11 of the ‘720 patent, the parties agree that the local distribution system is at a location that is distant in space from the location of the central processing location,[7] and is distant in space from the locations of the plurality of subscriber receiving stations.[8]

8. The “means for receiving” in Claim 4 in the ‘720 patent recites the function of “receiving compressed, digitized data representing at least one item of audio/video information at a non-real time rate.” The specification discloses that this function is performed by transceiver 201. Therefore, the term “means for receiving” in claim 4 of the ‘720 patent shall be construed as transceiver 201, and its equivalents.

[6] The Round 2 Defendants contend that the phrase “central processing location” is indefinite.

[7] The Round 2 Defendants contend that the phrase “central processing location” is otherwise indefinite.

[8] The Round 2 Defendants contend that the phrase “subscriber receiving stations” is otherwise indefinite.

9. The “means for storing” in Claim 4 of the ‘720 patent recites the function of “storing a complete copy of the received compressed, digitized data.” The specification discloses that this function is performed by storage 203 and 200c. Therefore, the term “means for storing” in claim 4 of the ‘720 patent shall be construed as storage 203 or 200c, and their equivalents.

10. The “compression means” in Claim 7 of the ‘720 patent recites the function of “compressing the formatted data.” The specification discloses that this function is performed by compressor 116. Therefore, the term “compression means” in claim 7 of the ‘720 patent shall be construed as compressor 116, and its equivalents.

11. The “receiving means” in Claims 8 and 11 of the ‘720 patent recite the function of “receiving compressed, digitized data representing at least one item of audio/video information at a non-real time rate.” The specification discloses that this function is performed by transceiver 201. Therefore, the term “receiving means” in claims 8 and 11 of the ‘720 patent shall be construed as transceiver 201, and its equivalents.

12. The “storing means” in Claims 8 and 11 of the ‘720 patent recite the function of “storing a complete copy of the received compressed, digitized data.” The specification discloses that this function is performed by storage 203 and 200c. Therefore, the term “storing means” in claims 8 and 11 of the ‘720 patent shall be construed as storage 203 or 200c, and their equivalents.

13. The parties disagree as to whether the steps of Claims 14 and 17 of the ‘863 patent and Claims 8 and 11 of the ‘720 patent begin and occur only after a prior step or steps have been completed. This is the same issue that was argued to the Court during the last round of *Markman* briefing with respect to the steps of method claims in the ‘992 and ‘275 patents.

14. The parties disagree as to whether the “compressing the formatted and sequenced data blocks” step of Claims 14 and 17 of the ‘863 patent requires that the sequence of the formatted data blocks be maintained by the compression process. This is the same issue that was argued to the Court during the last round of *Markman* briefing with respect to the